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DIVISION OF
OIL GAS AND MINING

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September 20, 2001

Utah Coal Program
Utah Division of Oil, Gas, and Mining
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Salt Lake City, Utah 84114-5801

*Incoring
9/15/01*

Attn: Pam Grubaugh-Littig, Permit Supervisor

Subj: **Response to September 6, 2001 Meeting on Des Bee Dove Mine Postmining Land Use Issues, PacifiCorp, Des Bee Dove Mine, C/015/017-AM00D, Emery County, Utah.**

PacifiCorp, by and through its wholly-owned subsidiary, Energy West Mining Company ("Energy West") as mine operator, hereby submits a response to the comments expressed by the Division during our meeting on September 6, 2001 in our Huntington office.

In April of 2000, Energy West began the process of converting the Des Bee Dove MRP from a mining and reclamation permit to a permit strictly for reclamation purposes. This process included reducing the permit acreage of the Des Bee Dove Mine from 2760 acres to 154 acres. In September, 2000, the Division split this amendment in two, conditionally approving the legal and financial section, but left the permit reduction a separate deficient amendment. Energy West submitted responses to the deficiencies to the permit reduction amendment in October, 2000. In February, 2001, Energy West received identical deficiencies as in September, 2000.

The Division comments expressed from the September 6, 2001 meeting suggested that Energy West provide a comparison of pre-mining AUM's to post-mining AUM's. The Division also suggested that Energy West compare wildlife numbers (i.e. deer and elk counts), monitor and report other third party influences (timber harvesting, ORV use, fire, etc.) over the entire permit area.

It is Energy West's interpretation of the R645-301-400 regulations that the suggested comparisons should be made at bond release on lands that have been bonded, disturbed, reclaimed and revegetated. These lands are, and should be, required to support postmining land uses similar to pre-mining conditions. In other words, can the reclaimed land support grazing and wildlife as it did prior to coal mining and reclamation operations?

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In December, 1999, Energy West petitioned the Board of Oil, Gas and Mining and requested Agency Action to determine what the proper geographic area is to be covered by a performance bond. This was based in part on the OSMRE determination that for federal law purposes subsidence is not included within the term "surface coal mining operations." The Board's decision, based on the Findings of Fact, concluded that the performance bond shall cover only that area in which coal mining and reclamation operations have been conducted. The Board's decision differentiated the permit area and the area where coal mining and reclamation operations have been conducted.

The deficiency received from the February 7, 2001 review is stated as follows; **UCA 40-10-2(2) and R645-301-413**, the application must contain a description of how the land has met the stated postmining land use and how the mined land has met the surface owner or surface manager plans and programs described in the permit.

Utah Coal Regulation R645-301-413 (Performance Standards) states;

R645-3010413.100, Postmining Land Use. All disturbed areas will be restored in a timely manner to conditions that are capable of supporting:

R645-301-413.110, The uses they were capable of supporting before any mining; or

R645-301-413.120, Higher or better uses....

However, R645-301-412 (Reclamation Plan) states;

R645-01-412.100, Postmining Land-Use Plan. Each application will contain a detailed description of the proposed use, following reclamation, of the land within the proposed permit area, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land-use policies and plans. The plan will explain:

R64-301-110, How the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the postmining land use;...

Also, R645-301-411 (Environmental Descriptions) states;

R645-301-411.100, Premining Land-Use Information. The application will contain a statement of the condition and capability of the land which will be affected by coal mining and reclamation operations within the proposed permit area, ...

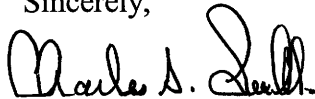
The regulations are clear that only the area where coal mining and reclamation operations have been conducted require "reclamation" before bond release. The intent of the regulations is to restore all lands that have been "disturbed" or impacted by coal mining and reclamation operations to a condition similar to that before disturbance. The area of land that is proposed to be removed from the permit area of the Des Bee Dove mine has not been impacted by coal mining and reclamation operations. Furthermore, the land proposed to be removed from the permit area is public land (managed by the United States Forest Service) and fee land. Energy West has no control over public land and cannot take responsibility for anything that might have occurred because of third party activity on land it did not control while the permit was outstanding.

According to the R645 regulations, the permit applicant is required to conduct subsidence surveys and report any subsidence to the Division. The applicant is also required to monitor and report the hydrology within the permit and affected areas. Energy West conducted and reported these surveys, as required.

Energy West feels that the suggestions expressed by the Division do not reflect the intentions of the required regulations. The data supplied on subsidence, hydrology and exploration drilling reclamation meets all requirements to reduce the size of the permit area.

If you have any questions or concerns regarding this issue please call me anytime at (435) 687-4720. I will be happy to discuss any concerns you might have.

Sincerely,



Charles Semborski
Geology/Permitting Supervisor

Cc: Scott Child (Interwest Mining Company)
Carl Pollastro (Energy West Mining Company)